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HOUSE OF REPRESENTATIVES
REPORT
109–49

PROVIDING FOR CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

APRIL 19, 2005.—Referred to the House Calendar and ordered to be printed

Mr. SESSIONS, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 219]

The Committee on Rules, having had under consideration House Resolution 219, by a non-record vote, reports the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 6, the Energy Policy Act of 2005, under a structured rule. The rule provides one hour and 30 minutes of general debate with 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20 minutes equally divided and controlled by the chairmen and ranking minority members of each of the following Committees: Science, Resources, and Ways and Means. The rule waives all points of order against consideration of the bill.

The rule makes in order only those amendments printed in this report, and provides that those amendments may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. The rule also provides one motion to recommit with or without instructions.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

RULES COMMITTEE RECORD VOTE NO. 32

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mrs. Slaughter.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Stupak, which prohibits any Federal or state permit or lease for new oil or gas slant, directional, or offshore drilling in or under the Great Lakes.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 33

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mr. McGovern.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Dingell, which restores fairness to the hydroelectric relicensing provisions of the bill by insuring that all parties to a licensing proceeding are entitled to a trial-type hearing for any issues of disputed material fact and that all parties may offer alternative conditions and prescriptions that must be accepted under certain conditions. Allows the resources Secretaries to consolidate multiple requests for trial-type hearings. Directs the resources Secretaries in the case of multiple alternatives to choose the alternative that is best suited to the relevant standards in the Federal Power Act.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 34

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mr. McGovern.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Rahall, which strikes Title XXI which eliminates provisions of law which require certain federal coal resources be made available on a competitive basis.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 35

Date: April 19, 2005.

Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mr. McGovern.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mrs. Capps, which strikes the safe harbor provision for MTBE; strikes the transition assistance for MTBE manufacturers; and speeds up the national phaseout of MTBE to 4 years from date of enactment.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 36

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mrs. Matsui.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Davis of Florida, which strikes section 330, "Appeals Relating to Pipeline Construction or Offshore Mineral Development Projects.".
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 37

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mrs. Matsui.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mrs. Johnson of Texas, which strikes section 1443 of H.R. 6. Under the existing Act, areas that have unhealthy air are required to reduce ozone-forming smog pollution by set statutory deadlines. Section 1443 would delay the set statutory deadlines.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

RULES COMMITTEE RECORD VOTE NO. 38

Date: April 19, 2005.
Measure: H.R. 6, Energy Policy Act of 2005.
Motion by: Mrs. Matsui.
Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Gilchrest, which requires the development of a National Climate Change Strategy, with the goal of stabilizing greenhouse gas concentrations in our atmosphere.
Results: Defeated 3 to 8.
Vote by Members: Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Barton: Manager's Amendment. Changes Table of Contents. Sets ESPC cap at $500 million by having OMB approve contracts. Includes ceiling fan efficiency standards. Limits preemption on state consumer product energy efficiency standards. Includes affordable housing amendments. Moves photovoltaic program back from DOE to GSA. Deletes duplicative provisions reported by the Resources Committee. Adds the Natural Gas Market Reform provision from the H.R. 6 conference report of the 108th Congress back into bill. Allows clean air coal projects of 600 MW or less. Makes employee benefits provision subject to appropriations. Clarifies references to firearm laws under nuclear security provision. Includes aircraft idling study as modified by the Transportation and Infrastructure Committee. Includes engine idling program as amended. Includes hydrogen fuel cell bus program. Reinserts Western MI Demonstration Project originally from the H.R. 6 conference report. Reinserts Western Hemisphere Energy Cooperation originally from the H.R. 6 conference report. Reinserts Arctic Engineering Research Center originally from the H.R. 6 conference report. Reinserts Barrow Geophysical Research Facility originally from the H.R. 6 conference report. Clarifies tax status of Ultra-deep consortium. Amends PUHCA language to allow savings clause and makes enforcement provisions effective on date of enactment. Requires regional boards with FERC participation to study security constrained economic dispatch. Changes Bump Up date. Modifies Soybean oil reference. Modifies NAS MTBE study date. Includes on-road and off-road diesel rules in fuel harmonization study. Clarifies LUST rulemakings and dates for appropriations. Boutique Fuels studies clarified and made subject to sound science. Modifications to Title headings. (Revised) (10 minutes)

2. Dingell: Authorizes the Federal Energy Regulatory Commission (FERC) to deter and punish fraud and manipulation in electricity and gas markets, increases penalties for Federal Power Act violations, authorizes FERC to refund all electricity overcharges, does not repeal the Public Utility Holding Company Act of 1935 (PUHCA), and directs the Securities and Exchange Commission to review utility holding companies' status under PUHCA to prevent them from wrongly claiming exemptions. The amendment retains a number of valuable provisions from Title XII, such as "open access" for public power entities, and does not modify the "native load" provision adopted in the Energy and Commerce Committee. The amendment retains Title XII's electric transmission provision, including the spending caps. (20 minutes)

3. Markey: Strikes the provisions that will allow oil and gas exploration in the Arctic National Wildlife Refuge. (30 minutes)

4. Boehlert/Markey/Kirk/Gilchrest/Leach/Shays: Directs the Secretary of Transportation to increase fuel economy standards from today's average of 25 miles/gallon to 33 miles/gallon over 10 years (by 2015), consistent with the findings of the National Academy of Sciences, in order to save 10% of the gasoline the nation would otherwise consume by 2015. Amendment also directs the Secretary to maximize job retention in the American auto manufacturing sector and to prevent taking actions that would reduce safety. (20 minutes)

5. Johnson (CT): Requires that the EPA's fuel economy test procedures reflect current driving patterns and conditions and provide consumers with more accurate information about fuel economy. (10 minutes)

6. Rogers (MI)/Kilpatrick: Amendment to the Johnson of Connecticut amendment. Directs the Administrator of the EPA to revise certain Federal vehicle fuel economy adjustment factors to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, and the use of other fuel depleting features to provide consumers with accurate fuel economy information on new vehicle labels. (10 minutes)

7. Bishop (NY)/Markey: This Democratic alternative energy policy will help lower gas prices, increase our energy efficiency standards, and eliminate special interest subsidies and instead invest those resources in new technology to create a better energy future for our children. (30 minutes)

8. Slaughter: Requires any escalator being installed in federal buildings to be an Intermittent Escalator. In addition, federal agencies would also be encouraged to incorporate other escalator energy conservation measures. (10 minutes)

9. Waxman: Requires the Administration to take "voluntary, regulatory, and other actions" to reduce oil demand in the U.S. by 1 million barrels per day from projected levels by 2013. (10 minutes)

10. Oberstar: Authorizes $20 million for the Administrator of General Services Administration to proceed with the Sun Wall Design Project, the winning entry in a national design competition sponsored jointly by the Department of Energy and the National Renewable Energy Laboratory, to install a photovoltaic solar electric system on the headquarters building of the Department of Energy. (10 minutes)

11. Abercrombie: Authorizes a 3-year demonstration program for the production of ethanol in Hawaii to parallel the existing program for corn to show that the process can be applicable to cane sugar and can be replicated on larger scale once the sugar cane industry has site located and constructed ethanol production facilities. Specifically, $8.0 million would result in a $1.00 per gallon payment to refiners and 8.0 million gallons of ethanol fuel. (10 minutes)

12. Kaptur: Provides the Secretary of Energy the authority to include in the Strategic Petroleum Reserve alternative fuels, including ethanol and biodiesel and rename the reserve the "Strategic Fuels Reserve." (10 minutes)

13. Conaway: Provides that the Department of Energy, in consultation with the Department of Labor and the Department of lnterior, will evaluate and report on both the short term and longer term availability of skilled workers to meet the energy security of the United States, addressing the availability of skilled labor at both entry level and at more senior levels in the oil, gas, and mineral industries. (10 minutes)

14. Solis: Strikes all of Title III, Subtitle D, the Refinery Revitalization Act. Subtitle D preempts state regulations, relaxes public health and environmental laws for siting of refineries, and has adverse impacts on under-served communities. (10 minutes)

15. Udall (NM): Strikes section 631, eliminating the proposed $10 million payment for three fiscal years to domestic uranium producers "to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies." (10 minutes)

16. Ford: Authorizes the Environmental Protection Agency to establish a program to encourage the domestic production of hybrid and advanced diesel vehicles. The program shall include grants (not to exceed $300 million each of the next ten years) to domestic automobile manufacturers to (a) encourage production of hybrid and advanced diesel vehicles and (b) provide consumer alternatives in the form of discounts, rebates, etc. to purchase hybrid and advanced diesel vehicles. (10 minutes)

17. Kaptur/Kucinich: Amends section 722, the Pilot Program for the Department of Energy's Clean Cities Program, to increase the number of project grants to State governments, local governments, and metropolitan transportation authorities from 15 to 30. Also reduces the amount of total Federal assistance under the pilot program to anyone applicant from $20 million to $15 million. Does not increase the bill's authorized spending level of $200 million for the pilot program. (10 minutes)

18. Millender-McDonald: Establishes a Diesel Truck Retrofit and Fleet Modernization Program to be administered in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency. Competitive grants are to be awarded to public agencies and/or state and local governments and entities to implement fleet modernization programs including installation of retrofit technologies for diesel trucks. (10 minutes)

19. Blumenauer: Establishes within the Department of Transportation a Conserve by Bicycling pilot program, which would oversee up to 10 pilot projects geographically dispersed across the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. In addition, the projects would encourage partnerships between stakeholders from transportation, law enforcement, education, public health, environment, and energy fields. Requires a report to Congress within two years of implementation. (10 minutes)

20 Jackson-Lee: Earmarks $5 million annually for bioenergy training and education targeted to minority and socially disadvantaged farmers and ranchers. (10 minutes)

21. Davis, T. (VA)/Waxman: Strikes section 978, "Improved Coordination and Management of Civilian Science and Technology Programs," which would create 2 new, Senate-confirmed assistant secretary positions within the Department of Energy, increasing the total number of Senate-confirmed assistant secretaries in the Department to 8. (10 minutes)

22. Walsh: Establishes a National Priority Project designation to be awarded annually to organizations that have advanced the field of renewable energy technology and contributed to North American energy independence. The designation shall be awarded in two categories: renewable energy generation projects; and, energy efficient and renewable energy building projects. (10 minutes)

23. Engel: Makes producers of "approved renewable fuels" eligible for grants to build production facilities for renewable fuels. In

the current bill, only merchant producers of cellulosic biomass and waste derived from ethanol are eligible for grants. (10 minutes)

24. Israel: Requires the Comptroller General of the United States to conduct a study on the impact of the consolidation of gasoline wholesales (and above) on the gasoline retail market (pricing of retail gasoline, local small business ownership and other market impacts). The study shall be delivered back to Congress 12 months from enactment of the legislation. (10 minutes)

25. Kucinich: Authorizes a National Academy of Sciences study on the feasibility of mustard seed as a feedstock for biodiesel. (10 minutes)

26. Holt: Requires the Secretary of Energy, within 2 years of enactment, to report to Congress on the potential fuel savings from information technology systems that help businesses and consumers to plan their travel and avoid delays. These systems may include, for example, web-based real time transit information systems, congestion information systems, car-pool information systems, parking information systems, freight route management, and traffic management systems. (10 minutes)

27. Grijalva: Strikes section 2005 which requires the Secretary of the Interior to suspend the collection of royalty payments to the Treasury for offshore oil and gas production on the Outer Continental Shelf (OCS) in the Gulf of Mexico. (10 minutes)

28. Inslee: Reduces by 50% any royalty payments, excluding the costs of processing the rights-of-way, for wind energy generation that otherwise would be paid to the Treasury on BLM lands. This royalty relief provision terminates after 10 years of enactment or after the Secretary declares there exists a generation capacity of at least 10,000 megawatts of electricity from renewable sources on public lands, whichever is sooner. (10 minutes)

29. Hastings (FL): Expands the definition of environmental justice, directs each Federal Agency to establish an office of environmental justice, reestablishes the interagency Federal Working Group on Environmental Justice, and requires that Executive Order (EO) 12898 (relating to Federal actions to address environmental justice in minority populations and low-income populations) remain in force until changed by law. (10 minutes)

30. Castle: Strikes language in the bill (section 320 of title III), which would preempt the authority of state and local governments to ensure that liquefied natural gas (LNG) facilities are sited in areas where they do not pose a threat to public safety, and the states' authority to ensure that such facilities are not sited in places where they pose a threat to sensitive coastal and ocean areas. Under section 320, the Federal Energy Regulatory Commission (FERC), would be made the lead federal agency for LNG siting decisions, and states would be granted only a consultative role. (10 minutes)

(Summaries derived from information provided by amendment sponsors.)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BARTON OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In the item in the table of contents relating to section 142, strike "cdbg" and insert "CDBG".

In section 105(a)(1), strike "Section 801(a)" and insert "Section 801(a)(2)".

In section 105(a)(1), strike "(42 U.S.C. 8287(a))" and insert "(42 U.S.C. 8287(a)(2))".

In section 105(a)(1), in the proposed subparagraph (E), insert "and report to the Office of Management and Budget" after "shall meet monthly".

In section 105(a)(1), in the proposed subparagraph (E), insert "No Federal agency shall enter into a contract under this title unless the Office of Management and Budget has approved such contract." after "contracts are not exceeded.".

In section 105, strike subsections (c), (d), (e), (f), and (g), and redesignate subsection (h) as subsection (c).

In section 133(b), in the proposed subsection (f), strike "for suspended ceiling fans,"; and strike the last sentence.

In section 133(c), in the proposed subsection (v), strike "SUSPENDED CEILING FANS, VENDING MACHINES," and insert "VENDING MACHINES" in the subsection heading.

In section 133(c), in the proposed subsection (v), strike "suspended ceiling fans, refrigerated bottled or canned beverage vending machines," and insert "refrigerated bottled or canned beverage vending machines".

In section 136, strike "Section 327" and insert "Effective 3 years after the date of enactment of this Act, section 327".

In section 136, redesignate the proposed subsection (h) as subsection (i).

In section 136, in the proposed subsection (i)(1) (as so redesignated by the preceding amendment), strike "or revised" both places it appears.

In section 148 of the bill, strike subparagraph (B) of paragraph (1) and insert the following:

> (B) in paragraph (2), by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "90.1–1989')";

In section 148 of the bill, strike subparagraph (B) of paragraph (2) and all that follows through the end of paragraph (3) and insert the following:

> (B) by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42

U.S.C. 1437v), the 2003 International Energy Conservation Code" before the period at the end; and

(3) in subsection (c)—

(A) in the heading, by inserting "AND THE INTERNATIONAL ENERGY CONSERVATION CODE" after "MODEL ENERGY CODE"; and

(B) by inserting ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "1989".

In section 205(a), in the proposed section 570(a)(1), strike "Secretary" and insert "Administrator of General Services".

In section 205(a), in the proposed section 570(a)(4), strike "Secretary" and insert "Administrator".

In section 205(a), in the proposed section 570(b)(1), strike "Secretary" and insert "Administrator".

In section 205(a), in the proposed section 570(b)(2), strike "Secretary" and insert "Administrator".

In section 205(a), strike "Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.)" and insert "Subchapter VI of chapter 31 of title 40, United States Code,".

In section 205(a), at the beginning of the quoted material, strike "**SEC. 570.**" and insert "**§3177**.".

Strike section 206 (and amend the table of contents accordingly).

Strike section 244 (and amend the table of contents accordingly).

Strike section 245 (and amend the table of contents accordingly).

In title III, after section 330, insert the following new section (and amend the table of contents accordingly):

SEC. 332. NATURAL GAS MARKET REFORM.

(a) CLARIFICATION OF EXISTING CFTC AUTHORITY.—

(1) FALSE REPORTING.—Section 9(a)(2) of the Commodity Exchange Act (7 U.S.C. 13(a)(2)) is amended by striking "false or misleading or knowingly inaccurate reports" and inserting "knowingly false or knowingly misleading or knowingly inaccurate reports".

(2) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by redesignating subsection (f) as subsection (e), and adding:

"(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil actions as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2).".

(3) EFFECT OF AMENDMENTS.—The amendments made by paragraphs (1) and (2) restate, without substantive change, existing burden of proof provisions and existing Commission civil enforcement authority, respectively. These clarifying changes do not alter any existing burden of proof or grant any new statutory authority. The provisions of this section, as restated herein, continue to apply to any action pending on or com-

menced after the date of enactment of this Act for any act, omission, or violation occurring before, on, or after, such date of enactment.

(b) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following:

"(a) It shall be unlawful—

"(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

"(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to section 5a(g) (1) and (2) of this Act, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

"(A) to cheat or defraud or attempt to cheat or defraud such other person;

"(B) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for such other person any false record;

"(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subsection (a)(2), with such other person; or

"(D)(i) to bucket an order if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market; or

"(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such other person to become the buyer in respect to any selling order of such other person, or become the seller in respect to any buying order of such other person, if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market.

"(b) Subsection (a)(2) shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 5a(g) (1) and (2) of this Act, with another person, to disclose to such other person nonpublic information that may be material to the market price of such commodity or transaction, except as necessary to make any statement made to such other person in connection with such transaction, not misleading in any material respect.".

(c) JURISDICTION OF THE CFTC.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end:

"SEC. 26. JURISDICTION.

"This Act shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information by the Commission to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity, and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.".

(d) INCREASED PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

In section 441(a), in the proposed section 3105(b)(1), insert "or equal to" after "projects less than".

In section 640, strike "Section 3110" and insert "Section 3110(a)".

In section 640, in the proposed paragraph (8), strike "Not later than" and insert "To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than".

In section 663, at the beginning of the quoted material, strike "(z)" and insert "z.".

In section 663, in the proposed subsection z.(1), strike "section 922(o), (v), and (w)" and insert "section 922(a)(4) and (o)".

In section 663, in the proposed subsection z.(2)(A), strike ", (o), (v), and (w)" and insert "and (o)".

In section 722(b)(1)(B), strike ", scooters,".

In title VII, amend section 753 to read as follows:

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in non-attainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environ-

mental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) RISK ASSESSMENTS.—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

In title VII, amend section 756 to read as follows:

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) ENERGY CONSERVATION TECHNOLOGY.—the term "energy conservation technology" means any device, system of devices, or equipment that improves the fuel economy of a heavy-duty vehicle.

(7) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency's SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies .

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction and energy con-

servation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

"(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

(d) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

In title VIII, after section 810, insert the following and make the necessary conforming changes in the table of contents:

SEC. 811. HYDROGEN FUEL CELL BUSES.

The Secretary of Energy, through the advanced vehicle technologies program, in coordination with the Secretary of Transportation, shall advance the development of fuel cell bus technologies by providing funding for 4 demonstration sites that—

(1) have or will soon have hydrogen infrastructure for fuel cell bus operation; and

(2) are operated by entities with experience in the development of fuel cell bus technologies, to enable the widespread utilization of fuel cell buses.

Such demonstrations shall address the reliability of fuel cell heavy-duty vehicles, expense, infrastructure, containment, storage, safety, training, and other issues.

In title IX, subtitle F, chapter 1, add at the end the following new sections:

SEC. 968A. WESTERN MICHIGAN DEMONSTRATION PROJECT.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8 hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8 hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any require-

ment or sanction that might otherwise apply during the pendency of the demonstration project.

SEC. 968B. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2006;

(2) $10,000,000 for fiscal year 2007;

(3) $13,000,000 for fiscal year 2008;

(4) $16,000,000 for fiscal year 2009; and

(5) $19,000,000 for fiscal year 2010.

SEC. 968C. ARCTIC ENGINEERING RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of Energy (referred to in this section as the "Secretary") in consultation with the Secretary of Transportation and the United States Arctic Research Commission shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the "Arctic Engineering Research Center" (referred to in this section as the "Center").

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of with-

standing the Arctic environment and using limited energy resources as efficiently as possible;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AMOUNT OF GRANT.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.

SEC. 968D. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the "Barrow Geophysical Research Facility", to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility $61,000,000.

In section 970(d), amend paragraph (3) to read as follows:

(3) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(a) of such Code.

In section 1236, adding a new section 217 to the Federal Power Act, insert a period before the final closing quotation marks.

In section 1252(a) and in section 1252(b), strike "Public Utilities" and insert "Public Utility".

In section 1254(b)(1), in the amendment to section 112(b) of the Public Utility Regulatory Policies Act of 1978, strike "(3)(A)" and insert "(5)(A)".

In section 1254(b)(2), strike "112(d) f" and insert "112(d) of".

In title XII, in section 1274(a), after "for" strike "section" and insert "sections 1269 (relating to effect on other regulations), 1270 (relating to enforcement), 1271 (relating to savings provisions), and".

In title XII, amend section 1298 to read as follows:

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

"(a) IN GENERAL.—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

"(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

"(c) POWERS.—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

"(d) REPORT TO THE CONGRESS.—Within one year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.".

In section 1443, in the amendment adding subsection (d) to section 181 of the Clean Air Act, in paragraph (4), strike "If, no more than 18 months prior to the date of enactment of this subsection" and insert "If, after April 1, 2003" and strike "within 12 months after the date of enactment of this subsection".

In title XIV, in section 1446, strike "as defined under section 2(a)(1)(A)" and insert "identified under section 2(a)(1)(B)" and strike "2720(a)(1)(A)" and insert "2720(a)(1)(B)".

In title XV, in section 1505(a), strike "The review shall be completed no later than May 31, 2014" and insert "The review shall commence after May 31, 2013, and shall be completed no later than May 31, 2014".

In section 1505(b), strike "No later" and insert "After completion of the review under subsection (a) and no later".

In section 1510, in subparagraph (G) of subsection (a)(2), after "vehicle emission systems," insert "on-road and off-road diesel rules," and after "imposed by" insert "the Federal Government,".

In section 1510(b)(1), strike "2007" and insert "2009".

In title XV, in section 1530, in subsection (a) adding a new subsection (i) to section 9003 of the Solid Waste Disposal Act, strike subparagraph (G) of paragraph (1) of such new subsection (i) and insert a period at the end of subsection (b).

In title XV, in section 1531, in the amendment adding new section 9014 to the Solid Waste Disposal Act, in paragraph (2)(C) strike "9004(f)" and insert "9003(i), 9004(f)," and in paragraph (2)(D) strike "9011 and 9012" and insert "9010, 9011, 9012, and 9013".

In section 1541(c)(2), strike "preserves air quality standards" and insert "addresses air quality requirements".

In section 1541(c)(2), strike "that results" and insert "including that which has resulted".

In section 1541(c), insert the following new paragraph after paragraph (2) and redesignate the following paragraphs accordingly:

> (3) CONDUCT OF STUDY.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices, shall consider the best available science, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence. The Administrator and the Secretary shall coordinate the study required by this section with other studies required by the act and shall endeavor to avoid duplication of effort with regard to such studies.

In section 1541(c)(4) (as redesignated by the preceding amendment), strike the sentence beginning with "The Administrator shall use sound".

In the heading of title XVII, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

In the heading of title XIX, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

Strike section 2026 (and amend the table of contents accordingly).

In the heading of title XXI, insert "**—RESOURCES**" at the end (and amend the table of contents accordingly).

Redesignate title XXV as title XXIV, and redesignate sections 2501 through 2506 as sections 2401 through 2406, respectively (and amend the table of contents accordingly).

Redesignate section 2601 as section 2055, and move it to the end of subtitle D of title XX.

Redesignate section 2602 as section 112, and move it to the end of subtitle A of title I.

Strike the remainder of title XXVI.

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DINGELL OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Title XII of H.R. 6 is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SECTION 1201. SHORT TITLE.

This title may be cited as the "Electric Reliability Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is syn-

chronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by—

"(i) an independent board;

"(ii) a balanced stakeholder board; or

"(iii) a combination independent and balanced stakeholder board.

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compli-

ance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States.

A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.".

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not mroe than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers

may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

"SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.".

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Com-

mission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

"(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

"(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

"(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

"(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.".

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed

any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

"(2) Section 201(f) shall not limit the application of this subsection.".

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term "electric power or natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to

quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase "purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas" in-

cludes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for an individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years" .

(2) By striking "$500" in subsection (b) and inserting "$1,000,000".

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) By striking "$10,000 for each day that such violation continues" and inserting "the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation".

(3) By adding the following at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or

purchasing electric energy at wholesale in interstate commerce;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report

to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed

reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct."

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material

fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

"(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.".

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons op-

erating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

"(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.".

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: "In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.".

(2) By striking the second and third sentences.

(3) By striking out "the refund effective date or by" and ", whichever is earlier," in the fifth sentence.

(4) In the seventh sentence by striking "through a date fifteen months after such refund effective date" and insert "and prior to the conclusion of the proceeding" and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: "This section shall not apply to sections 301 and 304 of this Act.".

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

"(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

"(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

"(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.".

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting "electric utility," after "Any person,".

(2) By inserting ", transmitting utility," after "licensee" each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting ", electric utility, transmitting utility, or other entity" after "person" each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: "or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.".

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS, OR HIS DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike title XXII.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOEHLERT OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

In title VII, at the end of subtitle E, add the following:

SEC. 775. AVERAGE FUEL ECONOMY STANDARDS.

(a) PURPOSE.—The purpose of this section is to seek to save each year after 2014 10 percent of the oil that would otherwise be used for fuel by automobiles in the United States if average fuel economy standards remained at the same level as the standards that apply for model year 2007.

(b) IN GENERAL.—Section 32902 of title 49, United States Code, is amended by redesignating subsections (i) and (j) in order as subsections (j) and (k), and by inserting after subsection (h) the following:

"(i) STANDARDS FOR MODEL YEARS AFTER 2007.—The Secretary of Transportation shall prescribe by regulation average fuel econ-

omy standards for automobiles manufactured by a manufacturer in model years after model year 2007, that shall—

"(1) ensure that the average fuel economy achieved by automobiles manufactured by a manufacturer in model years after 2014 is no less than 33 miles per gallon;

"(2) ensure that improvements to fuel economy standards do not degrade the safety of automobiles manufactured by a manufacturer; and

"(3) maximize the retention of jobs in the automobile manufacturing sector of the United States.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(1) in the first sentence by inserting "and subsection (i)" after "of this subsection"; and

(2) in subsection (k) (as redesignated by subsection (a)) by striking "or (g)" and inserting "(g), or (i)".

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF CONNECTICUT, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In title VII, subtitle E, add at the end the following new section:

SEC. 775. UPDATE TESTING PROCEDURES.

The Administrator of the Environmental Protection Agency shall update or revise test procedures, Subpart B__Fuel Economy Regulations for 1978 and Later Model Year Automobiles-Test Procedures 600.209–85 and 600.209–95, of the Code of Federal Regulations, CFR Part 600 (1995) Fuel Economy Regulations for 1977 and Later Model Year Automobiles to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, current reference fuels, and the use of other fuel depleting features.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROGERS OF MICHIGAN, OR HIS DESIGNEE, AS AN AMENDMENT TO THE AMENDMENT NUMBERED _____, TO BE OFFERED BY REPRESENTATIVE JOHNSON OF CONNECTICUT, DEBATABLE FOR 10 MINUTES

In the matter proposed to be inserted by the amendment, strike "test procedures" and all that follows through "Later Model Year Automobiles-Test Procedures" and insert "the adjustment factors in sections".

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BISHOP OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 30 MINUTES

In section 109(2), at the end of the quoted material insert the following new paragraph:

"(4) All housing constructed under the military housing privatization initiative of the Department of Defense shall, to the maximum extent practicable—

"(A) meet Federal building energy efficiency standards under this section; and

"(B) include Energy Star appliances.

In title I, subtitle A, add at the end the following new section:

SEC. 112. MODEL BUILDING ENERGY CODE COMPLIANCE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program to provide grants to each State that the Secretary determines, with respect to new buildings in the State, achieves at least a 90-percent rate of compliance (based on energy performance) with the most recent model building energy codes.

(b) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines that standardize criteria by which a State that seeks to receive a grant under this section may—

(1) verify compliance with applicable model building energy codes; and

(2) demonstrate eligibility to receive a grant under this section.

(c) LOCAL GOVERNMENT CODES.—In the case of a State in which building energy codes are established by local governments—

(1) A local government may—

(A) apply for a grant under this section; and

(B) verify compliance, and demonstrate eligibility, for the grant under subsection (b); and

(2) if the Secretary determines that the local government is eligible to receive a grant, the Secretary may provide a grant to the local government.

(d) USE OF FUNDS.—Funds from a grant provided under this section may be used only to carry out activities relating to the implementation of building energy codes and beyond-code building practices.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) SET ASIDE.—Of the amounts authorized to be appropriated under paragraph (1), the Secretary may use not more than $500,000 for each fiscal year—

(A) to develop compliance guidelines;

(B) to train State and local officials; and

(C) to administer grants provided under this section.

In section 131(a), amend the proposed section 324A(3) to read as follows:

"(3) preserve the integrity of the Energy Star label by—

"(A) regularly updating Energy Star criteria; and

"(B) ensuring, in general, that—

"(i) not more than 25 percent of available models in a product class receive the Energy Star designation; and

"(ii) Energy Star designated products and buildings are at least 10 percent more efficient than—

"(I) appliance standards in effect on the date of enactment of this section; and

"(II) the most recent model energy code;

In section 133(a)(2), add at the end the following new paragraphs:

"(45)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commer-

cial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

"(B) The term 'commercial prerinse spray valve' may include (as determined by the secretary by rule) products—

"(i) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

"(ii) the application of standards to which would result in significant energy savings; and

"(iii) the application of standards to that would meet the criteria specified in subsection (o)(4).

"(C) The term 'commercial prerinse spray valve' may exclude (as determined by the secretary by rule) products—

"(i) that are used for special food service applications;

"(ii) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

"(iii) the application of standards to which would not result in significant energy savings.

"(46) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

"(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

"(B) a refrigerating system, including an electric motor;

"(C) an air-circulating fan; and

"(D) means for collecting or disposing of the condensate.".

In section 133(b)(1), insert after the proposed paragraph (13) the following new paragraphs:

"(14) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

"(15) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Prerinse Spray Valves.'".

In section 133(c), at the end of the quoted material insert the following new subsections:

"(ee) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

""Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
.....	1.00
> 25 –	1.20
> 35 –	1.30
> 54 – < 75	1.50
.....	2.25.

"(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should be amended.

"(B) The final rule shall contain any amendment by the Secretary and shall provide that the amendment shall apply to products manufactured on or after October 1, 2012.

"(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

""Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
.....	1.20
> 25 –	1.30
> 35 –	1.40
> 45 –	1.50
> 54 – < 75	1.60
.....	2.5.

"(ff) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

"(gg) STANDARDS FOR CERTAIN FURNACES.—(1) Notwithstanding subsection (f) and except as provided in paragraphs (2) and (3), a furnace (including a furnace designed solely for installation in a mobile home) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of—

"(A) for natural gas- and propane-fired equipment, not less than 80 percent; and

"(B) for oil-fired equipment not less than 83 percent.

"(2)(A) Notwithstanding subsection (f) and except as provided in paragraph (3)—

"(i) a boiler (other than a gas steam boiler) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 84 percent; and

"(ii) a gas steam boiler manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 82 percent.

"(B)(i) Notwithstanding subsection (f), if, after the date of enactment of this subsection, the Governor of a cold climate State files with the Secretary a notice that the State has implemented a requirement for an annual fuel utilization efficiency of not less than 90 percent for furnaces (other than boilers and furnaces designed solely for installation in a mobile home or boiler), the annual fuel utilization efficiency of a furnace sold in that State shall be not less than 90 percent.

"(ii) If a State described in clause (i) fails to implement or reasonably enforce (as determined by the Secretary) annual fuel utilization efficiency in accordance with that clause, the annual fuel use efficiency for furnaces (other than boilers and furnaces designed solely for installation in a mobile home or boiler) in that State shall be the fuel utilization efficiency established under paragraph (1).

"(3)(A) Not later than 5 years after the date on which a standard for a product under this subsection takes effect, the Secretary shall promulgate a final rule to determine whether that standard should be amended.

"(B) If the Secretary determines that a standard under subparagraph (A) should be amended—

"(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

"(ii) the new standard shall apply to any product manufactured after the date that is 5 years after the date on which the final rule is promulgated.".

In section 134(b), in the quoted material, insert at the end the following new paragraphs:

"(6) In the case of dehumidifiers covered under section 325(ee), the Commission shall not require an Energy Guide label.

"(7)(A) Not later than July 1, 2006, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

"(B) The requirements shall be based on the test procedure and labeling requirements contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, issued by the Environmental Protection Agency, except that third party testing and other non-labeling requirements shall not be promulgated unless the Commission determines the requirements are necessary to achieve compliance.

"(C) The rule shall apply to products manufactured after the later of—

"(i) January 1, 2007; or

"(ii) the date that is 60 days after the final rule is prescribed.".

In section 135, in the proposed subsection (h), insert ", upon adoption of a standard under this Act" after "fan light kits".

In title I, subtitle, C, add at the end the following new section:

SEC. 137. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) Very large commercial package air conditioning and heating equipment.";

(2) in paragraph (2)(B), by striking "small and large";

(3) by striking paragraphs (8) and (9) and inserting the following:

"(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

"(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

"(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air condi-

tioning and heating equipment that is rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 240,000 Btu per hour and below 760,000 Btu per hour (cooling capacity).";

(4) by redesignating paragraphs (10) through (18) as paragraphs (9) through (17), respectively; and

(5) in paragraph (10) (as redesignated by subparagraph (D)), by inserting ", except for gas unit heaters and gas duct furnaces" after "furnaces".

(b) STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking "Small and Large" and inserting "Small, Large, and Very Large";

(2) in paragraph (1), by inserting "but before January 1, 2010," after "January 1, 1994,";

(3) in paragraph (2), by inserting "but before January 1, 2010," after "January 1, 1995,";

(4) in paragraph (4), by inserting ", except for a gas unit heater or gas duct furnace," after "boiler";

(5) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(A)";

(ii) by striking "the date of enactment of the Energy Policy Act of 1992" and inserting "January 1, 2010";

(iii) by inserting after "large commercial package air conditioning and heating equipment" the following: "and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any"; and

(iv) by adding at the end the following:

"(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(iii) This subparagraph does not apply to gas-fired warm-air furnaces, gas-fired package boilers, storage water heaters, gas unit heaters, or gas duct furnaces manufactured 5 or more years after the date of enactment of the National Energy Efficiency Policy Act of 2005."; and

(B) in subparagraph (C)(ii), by inserting "and very large commercial package air conditioning and heating equip-

ment" after "large commercial package air conditioning and heating equipment"; and

(6) by adding at the end the following:

"(7) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

"(i) 11.2 for equipment with no heating or electric resistance heating; and

"(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

"(8) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be-

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 btu per hour (cooling capacity) shall be—

"(i) 10.6 for equipment with no heating or electric resistance heating; and

"(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

"(9) Each very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 10.0 for equipment with no heating or electric resistance heating; and

"(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

"(i) 9.5 for equipment with no heating or electric resistance heating; and

"(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

"(10) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum thermal efficiency at the maximum rated capacity of a gas-fired warm-air furnace with the capacity of 225,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 79.5 percent.

"(11) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum combustion efficiency at the maximum rated capacity of a gas-fired package boiler with the capacity of 300,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 84 percent.

"(12) Notwithstanding paragraph (5) (excluding paragraph (5)(g)), and except as provided in paragraph (14)—

"(A) the maximum standby loss (expressed as a percent per hour) of a gas-fired storage water heater shall be 1.30 (expressed as a measurement of storage volume in gallons); and

"(B) the minimal thermal efficiency of a gas-fired storage water heater shall be 82 percent.

"(13) Except as provided in paragraph (14), each gas unit heater and gas duct furnace manufactured 3 or more years after the date of enactment of this paragraph shall be equipped with—

"(A) an intermittent ignition device; and

"(B)(i) power venting; or

"(ii) an automatic flue damper.

"(14)(A) Not later than 5 years after the date on which a standard for a product under paragraph (10), (11), (12), or (13)

takes effect, the Secretary shall promulgate a final rule to determine whether the standard for that product should be amended.

"(B) If the Secretary determines that a standard should be amended under subparagraph (A)—

"(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

"(ii) the new standard shall apply to any product manufactured 4 or more years after the date on which the final rule is promulgated.".

(c) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended in subsections (a)(4) and (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment," each place it appears.

(d) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended in the first and second sentences, by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment," each place it appears.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to the equipment specified in section 340(1)(D) to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

"(2) Any State or local standard prescribed or enacted prior to the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

"(3) If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010.".

In section 304, insert at the end the following: "In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve, as used prior to 2002; carry out and make public analyses of costs and savings when making or deferring such acquisitions; take into account and report to Congress the impact the acquisition will have on the domestic and foreign supply of petroleum and the resulting price increases or decreases; and consult with the Secretary of Homeland Security on the security consequences of such acquisition or deferral.".

In title III, subtitle A, add at the end the following new section:

SEC. 305. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, to address the crude oil price problem in the short-term, the President should communicate immediately to the members of the Organization of Petroleum Exporting Countries (OPEC) cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that—

(1) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(2) the United States believes that restricting supply in a market that is in demand for additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(3) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world;

(4) the United States seeks an immediate increase in the OPEC crude oil production quotas; and

(5) the United States will temporarily suspend further purchases of crude oil for the Strategic Petroleum Reserve, thereby freeing up additional supply for the marketplace.

Amend section 355 to read as follows (and amend the table of contents accordingly):

SEC. 355. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

Title XII is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the "Electric Reliability Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section:

"(1) The term 'bulk-power system' means—

"(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

"(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

"(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(2) has established rules that—

"(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

"(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

"(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(A) the Commission finds a conflict exists between a reliability standard and any such provision;

"(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

"(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

"(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

"(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

"(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional enti-

ty for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(A) the regional entity is governed by—

"(i) an independent board;

"(ii) a balanced stakeholder board; or

"(iii) a combination independent and balanced stakeholder board.

"(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

"(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such

action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

"(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

"(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

"(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.".

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not mroe than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

"(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).".

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term "Federal utility" means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding the at the end the following:

"(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

"No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

"SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

"(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

"(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially

offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

"(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.".

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC. UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

"(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

"(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

"(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Com-

mission finds that such action complies with the rule under subsection (a).

"(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.".

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

"(2) Section 201(f) shall not limit the application of this subsection.".

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term "electric power or natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or

cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy,

or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase "purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas" includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for an individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years" .

(2) By striking "$500" in subsection (b) and inserting "$1,000,000".

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) By striking "$10,000 for each day that such violation continues" and inserting "the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation".

(3) By adding the following at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limi-

tations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of

this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas; or

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct."

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.″.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

"(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

"(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

"(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

"(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

"(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

"(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent

foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(4) Such entity has willfully violated any provision of this Act.

"(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

"(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

"(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

"(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions),

State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

"(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.".

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

"(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.".

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: "In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.".

(2) By striking the second and third sentences.

(3) By striking out "the refund effective date or by" and ", whichever is earlier," in the fifth sentence.

(4) In the seventh sentence by striking "through a date fifteen months after such refund effective date" and insert "and prior to the conclusion of the proceeding" and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: "This section shall not apply to sections 301 and 304 of this Act.".

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

"(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

"(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

"(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.".

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting "electric utility," after "Any person,".

(2) By inserting ", transmitting utility," after "licensee" each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting ", electric utility, transmitting utility, or other entity" after "person" each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: "or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.".

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term "State regulatory authority" has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.".

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

In section 25C(b)(1)(A) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after clause (iii) the following new clauses:

(iv) $150 for each electric heat pump water heater,

(v) $200 for each advanced natural gas, oil, propane furnace, or hot water boiler installed in 2006 ($150 for equipment installed in 2007, $100 for equipment installed in 2008),

(vi) $150 for each advanced natural gas, oil, or propane water heater,

(vii) $50 for each mid-efficiency natural gas, oil, or propane water heater,

(viii) $50 for an advanced main air circulating fan which is installed in a furnace with an Annual Fuel Utilization Efficiency of less than 92 percent,

(ix) $150 for each advanced combination space and water heating system,

(x) $50 for each mid-efficiency combination space and water heating system,

(xi) $250 for each geothermal heat pump, and

(xii) $250 for each advanced central air conditioner or central heat pump ($150 for equipment installed in 2008).

In section 25C(a) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (3) the following new paragraph:

(4) the energy efficient building property described in clauses (iv) through (xii) of subsection (b)(1)(A).

In section 25C(b) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (2) the following new paragraph:

(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property specified in clause (iv) through (xii) of paragraph (1) unless such property meets the performance and quality standards, and the certification requirements (if any), which—

(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

(B) in the case of the energy efficiency ratio (EER) for property described in clause (viii) or (ix) of subsection (d)(1)(B)—

(i) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

(C) are in effect at the time of the acquisition of the property.

In section 25C(c) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, add at the end the following new paragraphs:

(4) ENERGY EFFICIENT BUILDING PROPERTY.—The term "energy efficient building property" means—

(A) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

(B) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 92 percent annual fuel utilization efficiency (AFUE) and which has an advanced main air circulating fan,

(C) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

(D) a mid-efficiency natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

(E) an advanced main air circulating fan which has an annual electricity use of no more than 2 percent of the total annual energy use (as determined in the standard Department of Energy test procedures) and which is used in a new natural gas, propane, or oil-fired furnace,

(F) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(G) a mid-efficiency combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(H) a geothermal heat pump which has water heating capability by a desuperheater or full-condensing option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct GeoExchange systems; and

(I) a central air conditioner or central heat pump which meets the Energy Star specifications as set by the Environmental Protection Agency. The specifications must be made effective after December 31, 2005, and must be current as of the date of the expenditure or made effective later in the calendar year of the expenditure.

(5) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property and for piping or wiring to interconnect property described in paragraph (4) to the dwelling unit shall be taken into account for purposes of this section.

In subtitle B of title XIII, add at the end the following:

SEC. 1318. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor with respect to a qualified new energy efficient home, the credit determined under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—

"(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling unit shall not exceed—

"(i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), $1,000, and

"(ii) in the case of a dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), $2,000.

"(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING UNIT TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior taxable years.

"(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

"(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

"(B) expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualified new energy efficient home, or

"(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualified new energy efficient home, such term means the person designated as such by the owner of such home.

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which can, individually or in combination with other components, result in a dwelling unit meeting the requirements of this section.

"(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) which is—

"(i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and to have building envelope component improvements account for at least ⅓ of such 30 percent,

"(ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least ⅕ of such 50 percent,

"(iii) a manufactured home which meets the requirements of clause (i) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), or

"(iv) a manufactured home which meets the requirements of clause (ii) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

"(4) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

"(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

"(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

"(A) any sealant, insulation material, or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

"(B) exterior windows (including skylights),

"(C) exterior doors, and

"(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which—

"(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

"(ii) meet the Energy Star program requirements.

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—A certification described in subsection (c)(3)(C) shall be determined in accordance with

guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

"(2) FORM.—A certification described in subsection (c)(3)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(f) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in clauses (i) and (ii) of subsection (c)(3)(C) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

"(g) APPLICATION OF SECTION.—

"(1) 50 PERCENT HOMES.—In the case of any dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2009.

"(2) 30 PERCENT HOMES.—In the case of any dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the new energy efficient home credit determined under section 45K(a).".

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 45K(e), in the case of amounts with respect to which a credit has been allowed under section 45K.".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding after paragraph (12) the following new paragraph:

"(13) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1319. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179B the following new section:

"SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of—

"(1) $2.25, and

"(2) the square footage of the building.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

"(A) which is installed on or in any building located in the United States,

"(B) which is installed as part of—

"(i) the interior lighting systems,

"(ii) the heating, cooling, ventilation, and hot water systems, or

"(iii) the building envelope, and

"(C) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family housing property which is not within the scope of Standard 90.1–2001, but shall not include any qualified new energy efficient home (within the meaning of section 45K(d)(3)) for which a credit under section 45K has been allowed.

"(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

"(d) SPECIAL RULES.—

"(1) PARTIAL ALLOWANCE.—

"(A) IN GENERAL.—Except as provided in subsection (f), if—

"(i) the requirement of subsection (c)(1)(C) is not met, but

"(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.75' for '$2.25'.

"(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

"(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

"(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

"(B) The calculation methods under this paragraph need not comply fully with section 11 of Standard 90.1–2001.

"(C) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

"(D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1–2001 or in the 2005 California Nonresidential Alternative

Calculation Method Approval Manual, including the following:

"(i) Natural ventilation.

"(ii) Evaporative cooling.

"(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

"(iv) Daylighting.

"(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

"(vi) Improved fan system efficiency, including reductions in static pressure.

"(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

"(viii) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

"(ix) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

"(x) Wiring with lower energy losses than wiring satisfying Standard 90.1–2001 requirements for building power distribution systems.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

"(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

"(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

"(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

"(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

"(6) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

"(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

"(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(g) COORDINATION WITH OTHER TAX BENEFITS.—

"(1) NO DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) with respect to any building for which a credit under section 45K has been allowed.

"(2) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined assuming such reference building contains the property for which such deduction or credit has been allowed.

"(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

"(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

"(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

"(i) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 179C(e).".

(2) Section 1245(a) is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179C".

(4) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(5) Section 312(k)(3)(B) is amended by striking "section 179, 179A, or 179B" each place it appears in the heading and text and inserting "section 179, 179A, 179B, or 179C".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new item:

"Sec. 179C. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 1320. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this title, is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by adding at the end the following:

"(iv) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit), as amended by this title, is amended by adding at the end the following new subsection:

"(c) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

"(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2009.

"(2) SPECIAL RULES.—

"(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) PUBLIC UTILITY PROPERTY.—

"(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system prop-

erty is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

"(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(E) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, paragraph (1) shall be applied without regard to subparagraphs (A), (C), and (D) thereof.

"(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1320A. EXTENSION THROUGH 2010 FOR PLACING QUALIFIED FACILITIES IN SERVICE FOR PRODUCING RENEWABLE ELECTRIC ENERGY.

(a) IN GENERAL.—Subsection (d) of section 45 is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2011".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property originally placed in service on or after January 1, 2006.

At the end of title XIII, insert after subtitle C the following new subtitle:

Subtitle D—Method of Accounting for Oil, Gas, and Primary Products Thereof

SEC. 1331. PROHIBITION ON USING LAST IN, FIRST-OUT ACCOUNTING FOR OIL, GAS, AND PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end the following new subsection:

"(h) OIL AND GAS.—Notwithstanding any other provision of this section—

"(1) oil, gas, and any primary product of oil or gas, shall be inventoried separately, and

"(2) a taxpayer may not use the method provided in subsection (b) in inventorying oil, gas, and any primary product of oil or gas.".

(b) EFFECTIVE DATE AND SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period (not greater than 10 taxable years) beginning with such first taxable year.

SEC. 1332. EMERGING TECHNOLOGIES TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. EMERGING TECHNOLOGIES TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Emerging Technologies Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Emerging Technologies Trust Fund amounts equivalent to the taxes received in the Treasury by reason of section 472(h) (relating to prohibition on use of last-in, first-out inventory accounting for oil and gas).

"(2) LIMITATION.—The amount appropriated to the Trust Fund under paragraph (1) for any fiscal year shall not exceed $5,000,000,000.

"(c) EXPENDITURES.—Amounts in the Emerging Technologies Trust Fund shall be available to the Secretary of Energy to carry out a program to research and develop emerging technologies for more efficient and renewable energy sources.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 9511. Emerging Technologies Trust Fund.".

In title XIV, add at the end the following new sections:

SEC. 1452. SMALL BUSINESS COMMERCIALIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Energy shall provide assistance, to small businesses with less than 100 employees and startup companies, for the commercial application of renewable energy and energy efficiency technologies developed by or with support from the Department of Energy. Such assistance shall be provided through a competitive review process.

(b) APPLICATIONS.—The Secretary of Energy shall establish requirements for applications for assistance under this section. Such applications shall contain a commercial application plan, including a description of the financial, business, and technical support (including support from universities and national laboratories) the applicant anticipates in its commercial application effort.

(c) SELECTION.—The Secretary of Energy shall select applicants to receive assistance under this section on the basis of which applications are the most likely to result in commercial application of renewable energy and energy efficiency technologies.

(d) LIMIT ON FEDERAL FUNDING.—The Secretary of Energy shall provide under this section no more than 50 percent of the costs of the project funded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $200,000,000 for each of the fiscal years 2006 through 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2026.

SEC. 1453. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President should direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging and unfair practices at the gasoline pump.

SEC. 1454. TRANSPARENCY.

The Federal Trade Commission, in consultation with the Secretary of Energy, shall issue regulations requiring full disclosure by refiners and distributors of their wholesale motor fuel pricing policies, with a separate listing of each component contributing to prices, including the cost of crude oil (with exploration, extraction, and transportation costs shown separately if the refiner or distributor is also the producer of the crude oil), refining, marketing, transportation, equipment, overhead, and profit, along with ption of any rebates, incentives, and market enhancement allowances.

In title XVI, add at the end the following new section:

SEC. 1614. STUDY OF FINANCING FOR PROTOTYPE TECHNOLOGIES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Energy shall commission an independent assessment of innovative financing techniques to facilitate construction of new renewable energy and energy efficiency facilities that might not otherwise be built in a competitive market.

(b) CONDUCT OF THE ASSESSMENT.—The Secretary of Energy shall retain an independent contractor with proven expertise in financing large capital projects or in financial services consulting to conduct the assessment under this section.

(c) CONTENT OF THE ASSESSMENT.—The assessment shall include a comprehensive examination of all available techniques to safe-

guard private investors against risks (including both market-based and government-imposed risks) that are beyond the control of the investors. Such techniques may include Federal loan guarantees, Federal price guarantees, special tax considerations, and direct Federal investment.

(d) REPORT.—The Secretary of Energy shall submit the results of the independent assessment to the Congress not later than 9 months after the date of enactment of this section.

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8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SLAUGHTER OF NEW YORK, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In title I, subtitle C, add at the end the following new section:

SEC. 135. INTERMITTENT ESCALATORS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

"(e) INTERMITTENT ESCALATORS.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), any escalator acquired for installation in a Federal building shall be an intermittent escalator.

"(2) EXCEPTION.—Paragraph (1) shall not apply at a location outside the United States where the Federal agency determines that to acquire an intermittent escalator would require substantially greater cost to the Government over the life of the escalator.

"(3) ADDITIONAL ENERGY CONSERVATION MEASURES.—In addition to complying with paragraph (1), Federal agencies shall incorporate other escalator energy conservation measures, as appropriate.

"(4) DEFINITION.—For purposes of this subsection, the term 'intermittent escalator' means an escalator that remains in a stationary position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.".

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9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WAXMAN OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title I, add the following new subtitle and make the necessary conforming changes in the table of contents:

Subtitle E—Plan to Reduce Oil Demand

SEC. 151. PRESIDENTIAL ACTIONS.

(a) PROPOSED ACTIONS.—For purposes of reducing waste of oil and decreasing demand for foreign oil, not later than 6 months after the date of enactment of this Act, appropriate Federal Departments and agencies, as identified by the President, shall propose voluntary, regulatory, and other actions sufficient to reduce demand for oil in the United States by at least 1.0 million barrels per day from projected demand for oil in 2013.

(b) REQUEST TO CONGRESS.—If the President determines that the Departments and agencies referred to in subsection (a) lack authority or funding to implement the actions proposed under subsection (a), the President shall request the necessary authority or funding from Congress no later than 9 months after the date of enactment of this Act.

(c) FINAL ACTIONS.—No later than 12 months after the date of enactment of this Act, the Departments and agencies referred to in subsection (a) shall finalize the actions proposed pursuant to subsection (a) for which they have authority and funding.

(d) PRESIDENTIAL DETERMINATION.—The Departments and agencies referred to in subsection (a) may finalize regulatory and other actions pursuant to subsection (c) that achieve demand reductions less than the demand reduction specified in subsection (a) if the President, after public notice and opportunity for comment, determines that there are no practical opportunities for the nation to further reduce waste of oil.

(e) CAFE.—Nothing in this section shall mandate any changes in average fuel economy standards ("CAFE" standards) prescribed under chapter 329 of title 49 of the United States Code.

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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OBERSTAR OF MINNESOTA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle A of title II, add the following (and conform the table of contents accordingly):

SEC. 209. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly known as the Forrestal Building, $20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

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11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ABERCROMBIE OF HAWAII, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title II, subtitle A, add at the end the following new section:

SEC. 209. SUGAR CANE ETHANOL PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Sugar Cane Ethanol Pilot Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) ESTABLISHMENT.—There is established within the Department of Energy a program to be known as the "Sugar Cane Ethanol Pilot Program".

(c) PROJECT.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish a pilot project that is—

(A) located in the State of Hawaii; and

(B) designed to study the creation of ethanol from cane sugar.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) be limited to the production of ethanol in Hawaii in a way similar to the existing program for the processing of corn for ethanol to show that the process can be applicable to cane sugar;

(B) include information on how the scale of projection can be replicated once the sugar cane industry has site located and constructed ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $8,000,000, to remain available until expended.

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12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KAPTUR OF OHIO, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In title III, subtitle A, add at the end the following new section (and amend the table of contents accordingly):

SEC. 305. STRATEGIC FUELS RESERVE.

The Energy Policy and Conservation Act is amended—

(1) in section 2(2) (42 U.S.C. 6201(2)), by striking "Strategic Petroleum Reserve" and inserting "Strategic Fuels Reserve";

(2) in section 3 (42 U.S.C. 6202)—

(A) in paragraph (8)(C), by striking "petroleum products" each place it appears and inserting "fuel products"; and

(B) by adding at the end the following new paragraph: "(11) The term 'fuel products' means petroleum products and alternative fuels, including ethanol and biodiesel.";

(3) in title I (42 U.S.C. 6212 et seq.) by striking "Strategic Petroleum Reserve" each place it appears and inserting "Strategic Fuels Reserve";

(4) in part B of title I (42 U.S.C. 6231 et seq.)—

(A) by striking "petroleum products" each place it appears, including headings (and the corresponding items in the table of contents), and inserting "fuel products";

(B) by striking "petroleum product" each place it appears, including headings (and the corresponding items in the table of contents), and inserting "fuel product"; and

(C) by striking "Petroleum products" each place it appears and inserting "Fuel products";

(5) in section 165 (42 U.S.C. 6245)—

(A) in paragraph (5), by striking "of petroleum" and inserting "of fuel"; and

(B) in paragraph (7), by striking "Petroleum Accounts" and inserting "Fuel Accounts"; and

(6) in section 167 (42 U.S.C. 6247)—

(A) in the section heading (and the corresponding item in the table of contents), by striking "SPR Petroleum" and inserting "SFR Fuel"; and

(B) in subsection (a), by striking "SPR Petroleum" and inserting "SFR Fuel".

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13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONAWAY OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title III, subtitle B, add at the end the following new section:

SEC. 334. OIL, GAS, AND MINERAL INDUSTRY WORKERS.

Congress recognizes that a critical component in meeting expanded domestic oil and gas supplies is the availability of adequate numbers of trained and skilled workers who can undertake the difficult, complex, and often hazardous tasks to bring new supplies into production. Years of volatility in oil and gas prices, and uncertainty over Federal policy on access to resources, has created a severe shortage of skilled workers for the oil and gas industry. To address this shortage, the Secretary of Energy, in consultation with the Secretary of Labor, shall evaluate both the short term and longer term availability of skilled workers to meet the energy security requirements of the United States, addressing the availability of skilled labor at both entry level and at more senior levels in the oil, gas, and mineral industries. Within twelve months of the date of enactment of this Act, the Secretary of Energy, the Secretary of Labor, and the Secretary of the Interior shall submit to Congress a report with recommendations as appropriate to meet the future labor requirements for the domestic extraction industries.

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14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SOLIS OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike subtitle D of title III (relating to refinery revitalization) and make the necessary conforming changes in the table of contents.

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15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE UDALL OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 631 (and amend the table of contents accordingly).

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16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FORD OF TENNESSEE, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title VII, subtitle B, part 1, add at the end the following new section:

SEC. 713. EFFICIENT HYBRID AND ADVANCED DIESEL VEHICLES.

(a) PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles. The program shall include grants to domestic automobile manufacturers to—

(1) encourage production of efficient hybrid and advanced diesel vehicles; and

(2) provide consumer incentives, including discounts and rebates, for the purchase of efficient hybrid and advanced diesel vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Environmental Protec-

tion Agency for carrying out this section $300,000,000 for each of the fiscal years 2006 through 2015.

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17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KAPTUR OF OHIO, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 722(a), strike "15" and insert "20".
In section 722(e)(1), strike "$20,000,000" and "$15,000,000".

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18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MILLENDER-MCDONALD OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In title VII, after section 743 insert the following new section and make the necessary conforming changes in the table of contents:

SEC. 743A. DIESEL TRUCK RETROFIT AND FLEET MODERNIZATION PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall establish a program for awarding grants on a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, and/or particulate matter per proposal or per truck; or

(B) involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) trucks which are replacing scrapped trucks and on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1998 and before; and

(C) will be used for the transportation of cargo goods especially in port areas or used in goods movement and major hauling operations;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 5 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit, from any source other than this section.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to—

(1) make grants pursuant to this section;

(2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur after September 2006; and

(3) verify that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended the following sums:

(1) $20,000,000 for fiscal year 2005.

(2) $35,000,000 for fiscal year 2006.

(3) $45,000,000 for fiscal year 2007.

(4) Such sums as are necessary for each of fiscal years 2008 and 2009.

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19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BLUMENAUER OF OREGON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title VII, subtitle D, after section 754, insert the following new section (and amend the table of contents accordingly):

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—
(i) transportation;
(ii) law enforcement;
(iii) education;
(iv) public health;
(v) environment; and
(vi) energy;
(D) maximize bicycle facility investments;
(E) demonstrate methods that may be used in other regions of the United States; and
(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—
(A) document the results or progress of the pilot projects under subsection (c);
(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—
(i) weather;
(ii) land use and traffic patterns;
(iii) the carrying capacity of bicycles; and
(iv) bicycle infrastructure;
(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;
(D) include a cost-benefit analysis of bicycle infrastructure investments; and
(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—
(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);
(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and
(3) $750,000 shall be used to carry out subsection (d).

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20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON-LEE OF TEXAS, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 910, add at the end the following new subsection:

(h) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—In addition to amounts otherwise authorized by this section, there are

authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2005 through 2009. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and social disadvantaged farmers and ranchers.

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21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TOM DAVIS OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 978 (and conform the table of contents accordingly).

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22. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALSH OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

SEC. 1452. NATIONAL PRIORITY PROJECT DESIGNATION.

(a) DEFINITIONS.—For purposes of this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(b) DESIGNATION OF NATIONAL PRIORITY PROJECTS.—

(1) IN GENERAL.—There is hereby established the National Priority Project designation, which shall be evidenced by a medal bearing the inscription "National Priority Project". The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

(2) MAKING AND PRESENTATION OF DESIGNATION.—

(A) IN GENERAL.—The President, on the basis of recommendations made by the Secretary, shall annually designate organizations, if any, that have—

(i) advanced the field of renewable energy technology and contribute to North American energy independence; and

(ii) a project that has been certified by the Secretary under subsection (c).

(B) PRESENTATION.—The President shall designate projects with such ceremonies as the President may prescribe.

(C) USE OF DESIGNATION.—An organization that receives a designation under this section may publicize its designation as a National Priority Project in its advertising.

(D) CATEGORIES IN WHICH THE DESIGNATION MAY BE GIVEN.—Separate designations shall be made to qualifying projects in each of the following categories:

(i) Renewable energy generation projects.

(ii) Energy efficient and renewable energy building projects.

(c) APPLICATION AND CERTIFICATION.—

(1) SELECTION CRITERIA.—Certification and selection of the projects to receive the designation shall be based on the following criteria:

(A) FOR ALL PROJECTS.—The project demonstrates that it will install no less than 30 megawatts of renewable energy generation capacity.

(B) FOR ENERGY EFFICIENT BUILDING AND RENEWABLE ENERGY PROJECTS.—In addition to meeting the criteria established in subparagraph (A), building projects shall—

(i) comply with nationally recognized standards for high-performance, sustainable buildings;

(ii) utilize whole-building integration of energy efficiency and environmental performance design and technology, including advanced building controls;

(iii) utilize renewable energy for at least 50 percent of its energy consumption;

(iv) comply with applicable Energy Star standards; and

(v) include at least 5,000,000 square feet of enclosed space.

(2) APPLICATION.—

(A) INITIAL APPLICATIONS.—No later than 4 months after the date of enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with the provisions of this section.

(B) CONTENTS.—The application shall describe the project, or planned project, and its plans to meet the criteria listed in paragraph (1).

(3) CERTIFICATION.—Not later than 60 days after the application period described in paragraph (2), the Secretary shall certify projects that are reasonably expected to meet the criteria described in paragraph (1).

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23. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ENGEL OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 1512, in the section heading, strike "**CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE**" insert "**CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS**".

In section 1512, in the proposed subsection (r), in the subsection heading, strike "CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE" and insert "CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS".

In section 1512, in the proposed subsection (r)(1), strike "waste-derived ethanol" and insert ", waste-derived ethanol, and approved renewable fuels".

In section 1512, in the proposed subsection (r)(1), insert "or approved renewable fuels" after "production of ethanol".

In section 1512, in the proposed subsection (r)(2)(B), insert "or renewable" after "uses cellulosic".

In section 1512, in the proposed subsection (r), insert after paragraph (3) the following new paragraph:

"(4) DEFINITIONS.—For the purposes of this subsection:

"(A) The term 'approved renewable fuels' are fuels and components of fuels that have been approved by the Department of Energy, as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)), which have been made from renewable biomass.

"(B) The term 'renewable biomass' is, as defined in Presidential Executive Order 13134, published in the Federal Register on August 16, 1999, any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, acquatic plants, animal wastes, wood and wood residues, paper and paper residues, and other vegetative waste materials. Old-growth timber means timber of a forest from the late successional stage of forest development.".

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24. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ISRAEL OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title XVI, add the following new section:

SEC. 1614. CONSOLIDATION OF GASOLINE INDUSTRY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the consolidation of the refiners, importers, producers, and wholesalers of gasoline with the sellers of such gasoline at retail. The study shall include an analysis of the impact of such consolidation on—

(1) the retail price of gasoline,

(2) small business ownership,

(3) other corollary effects on the market economy of fuel distribution,

(4) local communities, and

(5) other market impacts of such consolidation.

(b) SUBMISSION TO CONGRESS.—The Comptroller General shall submit such study to the Congress not later than one year after the date of the enactment of this Act.

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25. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KUCINICH OF OHIO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title XVI, add at the end the following new section (and amend the table of contents accordingly):

SEC. 1614. FEASIBILITY STUDY OF MUSTARD SEED BIODIESEL.

(a) STUDY.—The Secretary of Energy shall enter into an arrangement with the National Academy of Sciences for a study to determine the feasibility of using of mustard seed as a feedstock for biodiesel.

(b) CONTENTS.—The study shall include comparisons to other biodiesel feedstocks using the following criteria:

(1) Economics from crop production to biodiesel in the typical percentage blends.

(2) Adaptability to various geographic and agricultural regions in the United States.

(3) Percentage and quality of oil content.

(4) Cetene ratings, viscosity ratings, emissions for the typical percentage blends.

(5) Potential to enhance oil, pesticide and herbicide qualities.

(6) Process technologies to convert into biodiesel.

(7) Usefulness of byproducts from the conversion process.

(8) Other criteria the National Academy of Sciences considers pertinent.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall transmit results of the study to Congress, the Secretary of Energy, and the Secretary of Agriculture, including any findings and recommendations.

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26. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOLT OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title XVI, add at the end the following new section (and amend the table of contents accordingly):

SEC. 1614. STUDY OF FUEL SAVINGS FROM INFORMATION TECHNOLOGY FOR TRANSPORTATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the Secretary of Transportation, report to Congress on the potential fuel savings from information technology systems that help businesses and consumers to plan their travel and avoid delays. These systems may include web-based real-time transit information systems, congestion information systems, carpool information systems, parking information systems, freight route management, and traffic management systems. The report shall include analysis of fuel savings, analysis of system costs, assessment of local, State, and regional differences in applicability, and evaluation of case studies, best practices, and emerging technologies from both the private and public sector.

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27. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRIJALVA OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 2005.

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28. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE INSLEE OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title XXVI add the following:

SEC. ___. LIMITATION ON RENT AND OTHER CHARGES WITH RESPECT TO WIND ENERGY DEVELOPMENT PROJECTS ON PUBLIC LANDS.

(a) IN GENERAL.—The Secretary of the Interior may not impose rent and other charges, excluding for the cost of processing rights-of-way, with respect to any wind energy development project on public lands that, in the aggregate, exceed 50 percent of the maximum amount of rent that could be charged with respect to that

project under the terms of Bureau of Land Management Instruction Memorandum No. 2003–020, dated October 16, 2002.

(b) TERMINATION.—Subsection (a) shall not apply after the earlier of—

(1) the date on which the Secretary of the Interior determines there exists at least 10,000 megawatts of electricity generating capacity from non-hydropower renewable energy resources on public lands; or

(2) the end of the 10-year period beginning on the date of the enactment of this Act.

(c) STATE SHARE NOT AFFECTED.—This section shall not affect any State share of rent and other charges with respect to any wind energy development project on public lands.

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29. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new title:

TITLE XXVII—ENVIRONMENTAL JUSTICE

SEC. 2701. EXECUTIVE ORDER 12898.

The provisions of Executive Order 12898, dated February 11, 1994, pertaining to Federal actions to address environmental justice in minority populations and low-income populations, shall remain in force until changed by law. In carrying out such executive order, the provisions of this title shall apply.

SEC. 2702. ADDITIONAL PROVISIONS RELATING TO ENVIRONMENTAL JUSTICE.

(a) DEFINITION OF ENVIRONMENTAL JUSTICE.—For purposes of Executive Order 12898, environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, educational level, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice seeks to ensure that minority and low-income communities have adequate access to public information relating to human health and environmental planning, regulations, and enforcement. Environmental justice ensures that no population, especially the elderly and children, are forced to shoulder a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazard.

(b) IDENTIFICATION AND PRIORITIZATION OF ENVIRONMENTAL JUSTICE COMMUNITIES.—For purposes of Executive Order 12898, criteria for defining an environmental justice community shall include demographic characteristics, such as percentages of minority and low-income residents within an area, as well as—

(1) health vulnerabilities, such as cancer mortality and incidence rate, infant mortality, low birth weight, asthma, and childhood lead poisoning; and

(2) environmental conditions, such as facility density and proximity to Corrective Action/Superfund Sites, Enforcement

Data (percent and number of uninspected facilities, percent and number of unaddressed violations, average and total penalty and air nonattainment status), emissions, attainment status, indoor air issues, 305b stream data, fish advisories, beach closings, and truck traffic.

(c) ESTABLISHMENT OF OFFICES OF ENVIRONMENTAL JUSTICE.—For purposes of Executive Order 12898, each of the following shall establish an Office of Environmental Justice:

(1) Department of Health and Human Services.
(2) Department of Housing and Urban Development.
(3) Department of Defense.
(4) Department of Labor.
(5) Department of Agriculture.
(6) Department of Transportation.
(7) Department of Justice.
(8) Department of the Interior.
(9) Department of Commerce.
(10) Department of Energy.
(11) Environmental Protection Agency.
(12) Office of Management and Budget.
(13) Office of Science and Technology Policy.
(14) Office of the Deputy Assistant to the President for Environmental Policy.
(15) Office of the Assistant to the President for Domestic Policy.
(16) National Economic Council.
(17) Council of Economic Advisers.
(18) Such other Government officials as the President may designate.

(d) INTEGRATION OF ENVIRONMENTAL JUSTICE POLICIES IN AGENCY ACTIONS.—For purposes of the environmental justice strategies developed by agencies under Executive Order 12898, each agency shall integrate the strategy into the operation and mission of the agency and explicitly address compliance with this Act, including in the following activities:

(1) Future rulemaking activities.
(2) The development of any future guidance, environmental reviews (including NEPA, CAA, Federal Land Policy Act), regulation, or procedures for Federal agency programs, policies, or activities that affect human health or the environment.

(e) INTERAGENCY FEDERAL WORKING GROUP COORDINATION AND GUIDANCE.—The interagency Federal Working Group on Environmental Justice (in this section referred to as the "Working Group") shall—

(1) coordinate an integrated environmental justice training plan for the Federal agencies and offices listed in subsection (c);
(2) formalize public participation efforts;
(3) survey the Federal agencies and offices to determine what is effective and how to best facilitate outreach without duplicating efforts;
(4) develop a strategy for allocating responsibilities and ensuring participation, even when faced with competing agency priorities; and

(5) coordinate plans to communicate research results so reporting and outreach activities produce more useful and timely information.

(f) AGENCY PUBLIC PARTICIPATION EFFORTS.—

(1) OUTREACH EFFORTS.—Each Federal agency listed in subsection (c) shall carry out and report outreach activities to the Working Group, including the following:

(A) Respond directly to inquiries from the public and other stakeholders.

(B) Maintain websites and listservers.

(C) Produce and distribute hardcopy documents and multimedia products.

(D) Conduct or sponsor briefings, lectures, and press conferences.

(E) Testify before Congress or other government bodies.

(F) Finance scholarships, fellowships, and internships.

(G) Support museum exhibits and other public displays.

(H) Sponsor, participate, or otherwise contribute to meetings attended by stakeholders.

(I) Provide scientifically-sound content for K–12 education activities; and

(J) fund outreach efforts managed outside the Federal Government.

(2) STAKEHOLDERS.—To ensure their active public participation and to provide input early in environmental decision-making, Federal agencies along with the Working Group shall develop ways to enhance partnerships and coordination with stakeholders, including affected communities, Federal, Tribal, State, and local governments, environmental organizations, nonprofit organizations, academic institutions (including Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), and Tribal Colleges), and business and industry.

(g) COMMUNITY TECHNOLOGY CENTERS.—

(1) IN GENERAL.—Federal agencies shall fund community technology centers to assist with technical assistance issues in the environmental justice area.

(2) DESCRIPTION.—In this subsection, the term "community technology center" (CTC) refers to programs with the goal of providing at least 10 hours of open access a week for anyone in a community, especially youth and adults in low-income urban and rural communities, for purposes of providing technical assistance to communities experiencing issues of environmental hazards.

(3) LOCATION.—A community technology center may be located in places such as libraries, community centers, schools, churches, social service agencies, low-income residential housing complexes, and Minority Academic Institutions (such as Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges).

(4) ACTIVITIES OF COMMUNITY TECHNOLOGY CENTER.—A community technology center funded under this section shall—

(A) assist community members in becoming active participants in cleanup and environmental development activities;

(B) provide independent and credible technical assistance to communities affected by hazardous waste contamination;

(C) review and interpret technical documents and other materials;

(D) sponsor workshops, short courses, and other learning experiences to explain basic science and environmental policy;

(E) inform community members about existing technical assistance materials, such as publications, videos, and web sites;

(F) offer training to community leaders in facilitation and conflict resolution among stakeholders; and

(G) create technical assistance materials tailored to the identified needs of a community.

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30. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTLE OF DELAWARE, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title III, strike section 320, and make the necessary conforming changes in the table of contents.

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